

DEATH OF "BUTCH," RACE TRACK NEWSY

Sheephead Bay Boys Paid for
Funeral With Their Hard-
Earned Pennies.

GOING TO ERECT STONE, TOO

BY J. S. A. MACDONALD.
NEW YORK, September 15.—"Little Butch," rough-toss, silver-dollar gambler and race track newsy, is dead. But "Butch" had a fine funeral. Every plunger, bookmaker and newsy in town is just now talking about it. For "Butch" was a grand character in his way, with thousands of genuine friends and acquaintances stretching from this city to the winter racing grounds at New Orleans, La., and Hot Springs, Ark. A little bit of a sixteen-year-old urchin was "Butch," squatly in appearance, and lit up by two of the roundest and bluest eyes and the biggest heart ever set into human frame.

When the mopes began to bud in the springtime down at Aqueduct, L. I., where the first meeting of the season heretofore is held early in April each year, one of the familiar sights to the thousands of regulars trooping through the entrance after a winter's enforced lay-off from an indulgence in their favorite diversion, was "Butch." Ever as they neared the gate to get inside to the railroads, or to the bookmakers, many a man and woman stopped to say "Howdy" in the distinctive slangy way of the main gate. Why the last time I saw you you were in New Orleans, How did you get up, Butch? was John W. Gates's salutation that spring.

"Ah, de robins' express fer mine," came the rejoinder, and "Butch" became a side topic of discussion along with the outcome of the Carter Handicap with the Gates party the rest of the afternoon. When news was good, "Butch" made money fast. From pennies he jumped to quarters, half dollars and "crusty wheels." At the latter stage he developed gambling propensities. Many a time, sneaking into the betting ring, "Butch" would run up a few silver dollars into a yellow 250 note, with the result that every sick, "broke," or generally under the weather newy at the race track or about Park Row in the city found a welcome stake that night. "Butch" was a real king among the newsies, and no mope ever enjoyed the race track and the affection his subjects of the curb accorded him.

But to get back to the funeral. The newsies around Sheephead Bay are sorry for "Butch" but proud of the funeral. They paid for it themselves. When bookmaker "Con" Shannon started to take up a subscription, "Butch," the natural newsy leader after "Butch," stepped up and said, "Now, we're on de job and nobody else's. It came to me that the pennies of the newsies about the race track saved 'Butch' from going to the Potters Field in a plain black wagon, and instead the remains found a sweetly quiet resting-place in a paid-for hearse in Linden Hill Cemetery."

If another story like the Harry K. Thaw-Stanford White tragedy breaks loose and the boys are lucky, "Butch" is going to have a noble hearse to ride in. The funeral was held at the home of Emmett O'Brien, drifted into town from the floral culture farms of the Cherry Department, away down on Long Island, where five years ago, a stocky, cheerful little Irishman of about eleven years. He staked a quarter in papers, and, after selling out, took a five-cent bed in the Newsies' Home.

Next morning, under the water tap, white face and hands were being washed and changed, he bumped into the nickname "Butch," and it remained close to him like the fly and the new 250 note, to the end. "Butch" showed that he was square, and he was always willing to fight anything of his size, so he became popular. He stayed about the Newsies' Home, and grew up with it. Good games played him safely away from cigarettes, craps, etc., and he was a good boy. Later on "Butch's" native cunning told him of the free easy money about a race track, and he discovered that that was a good thing. Instead of the downtown thoroughfare, Butch went before he died they played him around the Home.

An eleven-year-old boy grows up fast in New York. "Butch" was a newsy on the race track. Last year "Butch" decided he was getting too old for "broke" game. He disappeared from the race track and the next thing heard of him was as a junior salesman in a publishing house at a goodly salary from a friendly millionaire's purse. His new job brought him more money than ever, and because he was white, dead white, and had been up against it himself many a time, took of his crumple at the new place went short.

At the Newsies' Home it is said that the rules to keep a boy after he grows up. It was a real home to him—the only one

he had known since being left an orphan in his babyhood, so a point was strangled and "Butch" was kept on. Superintendent Helg liked him. So did everybody else. Just as the horses returned from Saratoga early in the month and "Butch" thought of visiting his friends at Sheephead Bay, he caught cold. He was advised to lay off, but he would go to work. On the second day he fainted across a bundle of catalogues. The ambulance changed at the warehouse door and "Butch" was taken to Bellevue Hospital down on the edge of the East River. On the third day the house surgeon sent for Mr. Helg and expressed no hope for the patient's recovery. "Butch" was told, too. He took it like a man. Only he had one regret, "It goes," he said with whispering voice, "only I ain't got no money and I'd like to be put away decent."

"I'll see to that, Butch," softly replied the superintendent.

"Sure?" asked "Butch."

"Sure."

So the Irish blue eyes glowed a prayer of thanks. The little patient fell asleep after a while and never woke up.

Superintendent Helg returned to the Home and dolefully informed the boys that "Butch" was dead; also that he had asked for a decent burial. "I want you boys to do it," he explained. He did not have to say anything further. "Butch" was on a table in a minute. He is small, but he has initiative. "It's up to us, fellows, I've got a half. Who's next?" spoke "Butch." The kids came in with their quarters, their dimes and their nickels in a jiffy. Then "Butch" spoke. "Gimp" and "Dusty" went through Park Row, "Butch" winding up at the Sheephead Bay race track. They could have had hundreds of dollars from the bookmakers and gamblers, but "Butch" wouldn't stand for it. Just \$10.00 was the total subscription. The boys found as the graveside, purchased a burial plot, and have enough left for two services. Later "Butch" vetoed the hack idea. "Let's us salt de money down fer de grave-stone," he averred; "de trolley fer out."

The boys served as pallbearers and mourners at the sixth Avenue undertaking establishment and then went by car over the big East River Bridge to await the coming of the casket. Mr. Helg paid for his cab, so old "Archie" Zimmer, the horse-trainer for Senator "Tim" Sullivan. Mr. Helg read the funeral service, and "Butch," as chief mourner, laid a big bunch of the dark blue flowers on the casket as it disappeared in the open grave. Crowds of a clump of loosened soil cracked on the pine covering.

"Ashes to ashes—dust to dust," read Mr. Helg.

"Oh, he was de white kid—dead white," said "Butch."

Then they turned away to catch the first race and the pink "Sporting Special."

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Nowadays you can be something other than an insurance company president and not regret the past. "Jack" Martin, for instance, recently rode the hour and the day when he rode Fountainhead in the Flatbush Stakes running of September 13th.

Fountainhead went to the post a tremendously well supported favorite, and he finished in the rank of beaten twenty-fourth by De Munn, Ballou, Diana, Leland and other youngsters he had towed up at Saratoga. The race was run in slower pace than the work given Fountainhead for the great two days previously. "Fountainhead" was the son of Oldfellow, almost suffered a fall after the finish, while Train, "Matt" Allen wanted to go to "Mart" in the meantime thousands of close observers of the running of the Flatbush Stakes, and good judges of two-year-old form, put Martin on the griddle, and he has been teasing and stalling there ever since. "Fountainhead" was a genuine winner, the Flatbush, too, the colt's career "Hill" Lakeland, becoming so unruly the jockey's friends had to escort the rider from the course after the days of the press and public that both the riders are not with an announcement of their present from the saddle at the close of the current season.

A local writer estimates Martin's worth at \$25,000 as the result of eight years' service in the silks, which means that the horse has won about \$250,000 a year. But that could not be so, for during the first three years of his racing while under service to Alex. Shields at Chicago, Ill., Martin received not much more than \$5,000 a year. Then must have been seasons here in the East when he garnered as much as \$5,000 a year which accounts a pretty line of reflection, and makes one stand in wonder at the great gains this horse-racing business has become in recent years. Apart from the wonderful incomes of the foremost jockeys, the thought of the volume of betting in the ring on every day of the racing season about New York may occasion a thrill of surprise. On Saturday, September 13th, when the Flatbush Stakes and the Century Stakes were contested, some 10,000 people crowded the grandstands and the stands at Sheephead Bay. Over 20,000 of them paid the admission of \$5.00 the box-office receipts on the day being over \$100,000 all told. A conservative estimate of the betting market on the seven race run that day is put at \$250,000. The jockeys are the kingpins in the situation, and consequently their "bit" is large and juicy.

WIRGINIA SUPREME COURT APPEALS

Sixteen Opinions Handed Down
at Staunton Last
Thursday.

THREE DECISIONS IN ONE CASE

[Special to The Times-Dispatch.]
STAUNTON, Va., September 15.—In the Supreme Court of Appeals Thursday sixteen opinions were handed down. There were three opinions in the case of Wasserman vs. Metzger, a case from the Circuit Court of Law and Chancery of the city of Norfolk, which was argued before the appellate court in Richmond in February last. Judge Buchanan, Whitte and Harrison united in the majority opinion, written by Judge Buchanan, by which the decree of this lower court is affirmed. Judge Caldwell dissented in opinion of considerable length, and Judge Keith concurred in Judge Caldwell's dissent, handing down an opinion embodying his views.

This controversy was over certain real estate in Norfolk city, which was conveyed by Samuel Wasserman and wife, in 1932, to a trustee to secure to Sophia Metzger two negotiable notes for \$1,250 each, payable respectively one and two years after date. The property was again conveyed in 1933 to Louis Wasserman by Samuel Wasserman and wife, the trustee assuming the payment of the two notes. The court of this lower court held that the property was to be held for the benefit of one of these notes and the president of the National Bank of Commerce, which held the note as collateral for an indebtedness of Morris to the bank, in January, 1934, informed the trustee in the deed of 1932 that default had been made in the payment of the note, and directed him to sell the property to satisfy the debt. The property was sold at public auction, in the manner required by the trust deed, to P. J. Morris, for \$2,200. To secure a debt of \$2,200 to the Mutual Building Association, Morris conveyed the property to trustees, and subsequently, in consideration of \$2,400 and the assumption of the \$2,200 note, again conveyed the property to Rikken Wasserman's trustee.

Mrs. Metzger filed her bill, claiming that she was the holder of one of the notes secured by the trust deed of 1932, and that there was a balance of \$2,200, that the note which P. J. Morris and the National Bank of Commerce represented themselves as holding had been paid long before the trustee was requested to sell the property, that she knew nothing of the sale, which was, therefore, void as to her, and praying that the deeds since the trust deed of 1932 be set aside and the property subjected to pay the balance due her. The court of Law and Chancery entered a decree in answer to Mrs. Metzger's prayer, and Mrs. Wasserman and her trustee appealed.

The affirmance of that decree by the Supreme Court of Appeals, which was affirmed in an opinion by Judge Whitte, the balance due on the second note held by her.

Great Mining Suit.

In Cranes Nest Coal and Coke Company vs. Virginia Iron, Coal and Coke Company, from the Circuit Court of Wise county, the decree of the lower court is affirmed in an opinion by Judge Whitte.

A coal mine in Wise county was leased by the Cranes Nest Coal and Coke Company to the Virginia Iron, Coal and Coke Company. The original lease was subject to the payment of a royalty of \$1.00 per ton, which the lessor reserved the right to vary over the leased premises and the use of tracks, roads, railways, etc., constructed by the lessee, for the purpose of removing coal and coke from the mine. The Virginia Iron, Coal and Coke Company, under this agreement, was driving cross-cuts from its coal lands over the dividing line between them and the leased lands of the Cranes Nest Coal and Coke Company, with a view to forming a connection with highways extending through the leased mine, when an injunction was procured against it by the Virginia Commonwealth. The Circuit Court of Wise county entered a decree perpetuating the injunction, and an appeal was obtained by the Cranes Nest Company.

It is decided by the Supreme Court that the Cranes Nest Company had the entire right of the premises, and agreement to do the work which was enjoined, and that the original lease clothed the lessor with the right to require all entries to be kept open for future use, while the entire right of the premises was present. The use of the three highways was not prohibited, and that it necessarily follows from this conclusion that unavoidable inconveniences incident to the fair exercise of the rights granted were within the contemplation of the parties, and assumed by the lessee, and the limitation that the use of the highways shall not injuriously interfere with the operations of the lease, was intended to protect it against the use of the highways for other purposes than the mining.

It is further held that driving by the lessor of the cross-entries over the dividing line between the premises, and the agreement prohibiting excavations by the lessee within sixty feet of the dividing line, nor is it in contravention of the statute.

The court is of opinion that the defendant is to have been sustained, and that the distribution of the coal, however, to the right of the Virginia Iron and Coke Company, to compensation for any coal to which it is entitled and of which it may be deprived by the lessor.

Personal Injury.

Forfeitures Collectors Company vs. Williams. From the Circuit Court of Tazewell county, the judgment is reversed, Judge Keith dissenting in opinion.

This suit was brought by Kendrick against Williams to recover one-fourth of the profits on the sale of certain lands, and the court rendered a verdict in Kendrick's favor for \$1,212.50, and from the judgments thereon Williams appealed to this court.

The opinion overrules all the assignments of error except the fourth, which was the refusal of the court to set aside the verdict. The court was divided after reviewing the evidence and the instructions given, the conclusion is reached that the verdict should be set aside, and the case remanded for a new trial.

Kendrick, Williams and one Isaac have been the parties from whom the profits of the lands were obtained, and it was held that the defendant was necessary to prove an illegal contract in order to maintain the action, courts will not entertain an action nor any alleged rights springing from it.

It is held that the Circuit Court erred in refusing to set aside the verdict, and the judgment is reversed and the case remanded for a new trial.

Assaulted on Train.

In Norfolk and Western Railway Company vs. Birchfield, from the Circuit Court of Tazewell county, the opinion by Judge Keith affirms the judgment of the lower court.

Birchfield was the passenger on an excursion train between Tazewell and Hot Springs, when he became involved in an assault with a man named O'Connor, who assaulted him, striking him over the head with a blackjack. The conductor of the train was engaged in taking tickets, and a few seats away from where the assault occurred, but took no steps to prevent it.

In the suit brought by Birchfield to recover damages from the railway company, the court rendered a judgment in favor of the company, and the case was remanded for a new trial.

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many he obtained a verdict in his favor, and the case was taken by the company to the Supreme Court of Appeals. It is said in the opinion that there was evidence tending to show that the alteration of the contract was made by the company in a bad faith, and that it was in a bad faith to alter the contract. The court held that the company was liable for the damages caused by the alteration of the contract.

In Crockett, sheriff, administrator of Ephraim Vaughn, vs. Etter, from the Wayne Circuit Court, the matter in dispute was a judgment lien which was given by the defendant to the plaintiff, and the plaintiff sought to enforce the lien. The court held that the lien was valid, and that the plaintiff was entitled to enforce it.

The judgment given priority was attacked by Vaughn's administrator, on the ground that the return on the summons was defective, and the judgment was rendered without jurisdiction, and that the judgment was null and void.

The Supreme Court holds that this objection is well founded, as the return on the summons, which showed that it was given by the defendant to the plaintiff, was defective, and the judgment was rendered without jurisdiction, and that the judgment was null and void.

The case of Virginia and Southwestern Railway Company vs. Hill, from the Circuit Court of Scott county, in which the plaintiff sought to recover damages for injuries and expenses received by him while ejected from a train of the company.

Hill bought what he supposed was a ticket from Clinchport to Appalachee, but the ticket was defective, and he was ejected from the train. The court held that the railway company was liable for the damages caused by the ejection of Hill from the train.

In the lower court he obtained a judgment against the railway company for \$2,200, from which the company obtained a writ of error in the Supreme Court.

It is held that the face of the ticket held by Hill was conclusive evidence as to the extent of his right to ride, and that the railway company was liable for the damages caused by the ejection of Hill from the train.

A Reversal.

Judge Keith handed down an opinion reversing the judgment of the Circuit Court of Pulaski county in Fayette National Bank vs. Summers.

Summers purchased a station for breeding purposes from John T. Higgins of Lexington, Ky. It being represented as a thoroughbred, sound and carrying a high straight tail. Upon carrying the horse to Lexington, Ky., it was found that it was a half-bred, and that it was carrying a low tail. Summers sought to recover the purchase price of the horse, and the court held that he was entitled to recover it.

It is stated that the evidence did not show that the bank had any knowledge of any equities between Higgins and Summers, and that the bank was not liable for the damages caused by the ejection of Summers from the train.

the Corporation Court of the city of Bristol upon a rehearing of a former decision. Was in an opinion by Judge Buchanan and Whitte dissent from the opinion of the majority. Judge Whitte filing a dissenting opinion.

This case involved the settlement of the estate of Joseph W. Jones, deceased, who died intestate leaving real property in both Virginia and Tennessee, to be divided amongst two sets of children, some of whom lived in consideration of advances received by them, entered into contracts with their father relinquishing their expectancy.

In Virginia Iron, Coal and Coke Company vs. Kiser, administrator, the judgment of the Circuit Court of Wise county is reversed in an opinion by Judge Caldwell, holding that the evidence was insufficient to sustain the verdict.

In James Green, et al., vs. E. M. Pennington, from the Circuit Court of Lee county, the judgment is reversed. Opinion by Judge Buchanan.

Blackburn, et al., vs. J. W. Robinson, from the Circuit Court of Scott county. Decree reversed. Opinion by Judge Buchanan.

Jackson, et al., vs. County of Giles, et al., vs. Anderson, from the Circuit Court of Giles county. Affirmed. Opinion by Judge Whitte.

International Harvester Company of America vs. Smith, from the Circuit Court of Pulaski county. Affirmed. Opinion by Judge Keith.

Fields vs. Fields, from the Circuit Court of Scott county. Reversed. Opinion by Judge Harrison.

Larkley vs. Gardner, from the Circuit Court of Scott county. Reversed and dismissed. Opinion by Judge Harrison.

Public Schools' Athletics.

The present issue of Spaulding's Athletic Library, issued by the American Sports Athletic Company, 21 Warren Street, New York, is devoted to the Public Schools Athletic League, and it is the official hand-book for the year. This book contains a front page portrait of the Hon. Theodore Roosevelt, who is the honorary president of the Public Schools Athletic League, and portraits of other officers. It is replete with pictures of this year's champions of the high and elementary schools, and contains as well a complete athletic record of the past year, rules governing school sports, and a separate chapter regarding the girls' branch of the Public Schools Athletic League.

CRITICALLY ILL.

Little Hope Exists of Recovery of General James C. Hill.

[Special to The Times-Dispatch.]
SCOTTSDALE, Va., September 15.—The many friends of General James C. Hill throughout this and other States have manifested much interest in his condition, and will be relieved to know that he is still critically ill, but little hope of his recovery is entertained.

Congressman John Lamb and Hill Montague have been forced by press of business to return to Richmond. Other relatives of the General who had been summoned are doing all possible to administer to his comfort.

His daughters, Mrs. M. I. Dunn, of Covington, Ky., and Miss Beattie Hill, of Lexington, Va., are with him, as are also his sons, Mr. A. C. Hill, of Baltimore, and Mr. Emory Hill, of Richmond, Va.

Washington Affairs.

[Special to The Times-Dispatch.]
WASHINGTON, D. C., September 15.—North Carolina postmaster appointed: Connelly Springs, Burke county, Ralph V. Abernethy, vice Winslow C. Abbe, deceased; Gulf, Chatham county, John Kennedy, vice Percy A. Beale, deceased; Madison, Rockingham county, Thomas P. Newman, vice P. A. Foster, resigned.

Rural carriers appointed for North Carolina route: Asht, Route 1, Charlie W. Martin, carrier; Walter W. Ferguson, carrier; King, Route 2, Levi W. Ferguson, carrier; John C. Ferguson, substituting Rocky Mount, Route 3, James B. Worw, carrier; Samuel D. Judge, substituting.

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